WC 05-352

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition of BellSouth Corporation,	)	
AT&T Inc. and Qwest Corporation	)	
Requesting Modification of RAO Letter 12	)	

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Federal Communications Commission
Office of Secretary

PETITION REQUESTING EXPEDITED RELIEF

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SUMMARY

In this Petition, Joint Petitioners request expedited relief modifying RAO Letter 12 to eliminate its $1 million materiality threshold at the earliest possible date. The public interest would best be served if large incumbent LECs use the same materiality standard for both GAAP and Commission regulatory purposes. In support of their submission, Joint Petitioners demonstrate that Commission precedent as well as relevant case law, federal agency regulatory law, the securities laws, and the accounting profession (especially that profession's standards-setting body) all reject the use of a "formulaic" approach to materiality that relies on a "quantitative" threshold and fails to consider "qualitative" factors. Joint Petitioners further demonstrate that the Commission has the requisite authority to make the modification. Finally, Joint Petitioners also demonstrate that RAO 12's $1 million threshold does not provide any additional protection against intentional misstatements and that RAO 12's overly-restrictive materiality standard provides no protection to regulated ratepayers under price cap regulation.

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PETITION REQUESTING EXPEDITED RELIEF

BellSouth Corporation ("BellSouth"), AT&T Inc. ("AT&T"), and Qwest Corporation ("Qwest") (hereafter referred to as "Joint Petitioners" or "Petitioners"), respectfully request that the Federal Communications Commission ("Commission") modify RAO (Responsible Accounting Officers) Letter 12[1] to eliminate its $1 million materiality threshold[2] at the earliest possible date.[3] Joint Petitioners are of the opinion that the public interest would be best served if

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[1] *See* RAO Letter 12, 3 FCC Rcd 2454 (Apr. 11, 1988); as revised, 3 FCC Rcd 4401 (July 20, 1988); further revised, 5 FCC Rcd 6783 (Oct. 23, 1990) ("2nd Revised RAO Letter 12"); Errata, DA 90-1507, rel. Oct. 23, 1990.

[2] This Petition does not challenge the Commission's right to adopt a materiality standard for Commission accounting and reporting purposes that differs from materiality determinations under Generally Accepted Accounting Principles ("GAAP"). *See* 47 U.S.C. § 220; 47 C.F.R. § 32.26; *Revision of the Uniform System of Accounts for Telephone Companies, Report and Order*, 50 Fed. Reg. 48408, CC Docket No. 84-469, rel. Nov. 25, 1985 ¶¶ 75-80 ("*GAAP Order*").

[3] RAO 12 differs from the Commission's other RAO letters in that its aggregate $1 million materiality threshold imposes an unnecessary and ongoing burden on Petitioners and other local exchange carriers ("LECs") during each Joint Cost audit and in ARMIS filings. This is why Petitioners are addressing RAO 12 in a separate petition and asking for expedited Commission review.

the Commission allowed large incumbent LECs to use the same materiality standard for both GAAP and Commission regulatory purposes.[4]

I. BACKGROUND

RAO 12 was issued to provide guidance on interpreting the *Joint Cost Order's*[5] audit requirements. In the *Joint Cost Order* the Commission adopted: (1) cost allocation standards to support accounting separation; (2) rules governing affiliate transactions; and (3) accounting, audit and enforcement requirements.[6] Carriers subject to the *Joint Cost Order's* audit provisions were required to conduct an annual [now biennial covering two full years] audit to ensure that carriers were accounting for affiliate transactions and non-regulated operations in conformance with their Cost Allocation Manuals ("CAM").[7]

Nowhere in the *Joint Cost Order*[8] did the Commission adopt a "materiality" standard to be used by auditors in conducting affiliate transaction/cost allocation audits or to govern

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[4] In addition to this request for expedited relief and modification of RAO 12, Petitioners anticipate filing another petition in the future that will address elimination of RAO Letters that are no longer relevant.

[5] *In the Matter of Separation of costs of regulated telephone service from costs of nonregulated activities. Amendment of Part 31, the Uniform System of Accounts for Class A and Class B Telephone Companies to provide for nonregulated activities and to provide for transactions between telephone companies and their affiliates*, Report and Order, 2 FCC Rcd 1298 (1987) ("*Joint Cost Order*"), *on recon.*, 2 FCC Rcd 6283 (1987), *on further recon.*, 3 FCC Rcd 6701 (1988), *aff'd sub nom., Southwestern Bell Corp. v. FCC*, 896 F.2d 1378 (D.C. Cir. 1990).

[6] *Joint Cost Order*, 2 FCC Rcd at 1299 ¶ 1.

[7] *See id.* at 1329-33 ¶¶ 243-74. *See also In the Matter of Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 1*, Report and Order, 15 FCC Rcd 8690, 8698-99 ¶ 15 (2000) (extending annual audit requirement to a biennial two-year audit).

[8] For example, *see In the Matter of Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67, and 69 of the FCC's Rules)*, Report and Order, 2 FCC Rcd 5770 (1987), *on recon.*, 3 FCC Rcd 6375 (1988).

corrections to the Uniform System of Accounts ("USOA") and ARMIS reports.[9] The $1 million materiality threshold that is the subject of this petition first appeared in the second revision of RAO Letter 12.[10] In that revision of RAO 12, the then Chief of the Accounting and Audits Division stated: "We will rely on the professional judgment of the independent auditor for determinations of materiality as it relates to the scope of the audit; however, we expect that during the course of an audit, the discovery of any error or omission in excess of $1 million will result in a correction of the reported results."[11] In a subsequent letter to Mr. Porter Childers of USTA, Mr. Kenneth Moran, Chief of the Accounting and Audits Division, further clarified that the $1 million threshold applied not just to individual deviations of $1 million or more -- but to the "aggregate of all discrepancies" which impact nonregulated operations by $1 million or more.[12]

The materiality standard in RAO Letter 12 cannot be viewed in isolation. Materiality is a concept that has been long-employed in the financial world and the accounting profession to

[9] However, in adopting the USOA, the Commission reserved the right to make its own determination with respect to materiality. *See GAAP Order*, 50 Fed. Reg. 48408 ¶¶ 75-80; *In the Matter of Revision of the Uniform System of Accounts and Financial Reporting Requirements for Class A and Class B Telephone Companies (Parts 31, 33, 42, and 43 of the FCC's Rules)*, Memorandum Opinion and Order, 2 FCC Rcd 1086, 1088 ¶ 22 (1987); Memorandum Opinion and Order, 2 FCC Rcd 6555, 6556 ¶¶ 12-13 (1987). *See also* 47 C.F.R. § 32.26 which states: "Companies shall follow this system of accounts in recording all financial and statistical data irrespective of an individual item's materiality under GAAP, unless a waiver has been granted under the provisions of § 32.18 of this subpart to do otherwise." But as RAO Letter 7 observes: "there is a substantial difference between [the Commission] reserving the right to make [its own determination of materiality] and exercising it in every case . . ." *See* RAO Letter 7, rel. July 1, 1987, at 3.

[10] *See* 2nd Revised RAO Letter 12, 5 FCC Rcd at 6783.

[11] *Id.*

[12] *See* Letter from Kenneth P. Moran, Chief, Accounting and Audits Division, FCC to Mr. Porter Childers, Executive Director, Accounting and Financial Matters, United States Telephone Association, January 25, 1991. It should be noted that Mr. Moran's letter was not identified as a revision of RAO Letter 12 nor was it issued under delegated authority.

determine whether financial records/statements should be corrected to reflect errors and omissions. The Financial Accounting Standards Board ("FASB") defines materiality as:

> The magnitude of an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement.[13]

Essentially the same definition has been used by the courts in cases addressing federal securities laws. In applying Rule 14a-9 of the Securities and Exchange Act of 1934 in *TSC Industries*, the Supreme Court held that:

> An omitted fact is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote... Put another way, there must be a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available.[14]

In *Basic, Incorporated v. Levinson*, the Supreme Court adopted this same materiality standard for Section 10(b) of the Securities and Exchange Act and the Securities and Exchange Commission ("SEC") Rule 10b-5.[15] On the basis of these decisions and relevant accounting literature (*e.g.*, FASB publications), the SEC staff, the agency responsible for administering federal securities laws, concluded that both "qualitative" and "quantitative" factors must be considered in assessing an item's materiality.

> Under the governing principles, an assessment of materiality requires that one views the facts in the context of the "surrounding circumstances," as the accounting literature puts it, or the "total mix" of information, in the words of the

[13] *See* Statement of Financial Accounting Concepts No. 2, Qualitative Characteristics of Accounting Information ("Concepts Statement No. 2"), Financial Accounting Standards Board ("FASB"), May 1980, Glossary of Terms, at 9 (1980). *See also id.* ¶¶ 123-32.

[14] *See TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976). In commenting on whether summary judgment was appropriate, the Supreme Court noted that determinations of materiality require "delicate assessments of the inferences a 'reasonable shareholder' would draw from a given set of facts and the significance of those inferences to him." *Id.* at 450.

[15] *See Basic, Incorporated v. Levinson*, 485 U.S. 224 (1988).

Supreme Court. In the context of a misstatement of a financial statement item, while the "total mix" includes the size in numerical or percentage terms of the misstatement, it also includes the factual context in which the user of financial statements would view the financial statement item. The shorthand in the accounting and auditing literature for this analysis is that financial management and the auditor must consider both "quantitative" and qualitative" factors in assessing an item's materiality. (Footnote citing FASB eliminated.)[16]

In summary, the Courts, FASB, the SEC and the accounting profession all reject the use of a "formulaic" approach to materiality that solely relies on a "quantitative" threshold (such as that contained in RAO Letter 12) and fails to consider "qualitative" factors (*i.e.*, the surrounding circumstances).[17]

II. AUTHORITY

In the past, RAO Letters have been issued under delegated authority,[18] in response to questions, to provide guidance to companies on complying with Commission accounting rules.[19] Even though RAO Letter 12 and other RAO Letters have the force of Commission rules, they are not the product of Commission rulemaking proceedings subject to the Administrative Procedure

[16] *See* SEC Staff Accounting Bulletin ("SAB") No. 99 – Materiality, August 12, 1999 at 3.

[17] *Id.* at 2-5 which cites FASB numerous times.

[18] *See* 47 C.F.R. § 0.291; *also see* 47 C.F.R. § 0.91

[19] "Since 1935, the Commission has used accounting interpretations to give regulatory accounting guidance to telephone companies. Initially, the vehicles for delivering these interpretations were case studies issued in response to questions that carriers had submitted. In 1987, the vehicle became **Responsible Accounting Officer (RAO)** Letters. Under Section 32.17 of our rules, these letters are issued to maintain uniformity within the system of accounts prescribed in our Part 32 rules. Generally, the Bureau issues these letters to provide guidance to carriers in response to accounting questions. The letters' purpose is to explain, interpret, or resolve accounting matters." *In the Matters of Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32, Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base,* Memorandum Opinion and Order and Notice of Proposed Rulemaking, 11 FCC Rcd 2957 ¶ 2 (1996) (footnotes omitted, bold emphasis added) (*"March 7, 1996 MO&O"*).

Act ("APA").[20] Existing RAO Letters which were adopted by the Accounting and Audits Division of the Common Carrier Bureau under delegated authority represent the former Division's guidance on interpreting and complying with Commission rules/orders.

While RAO Letters are essentially ministerial in nature and should be revised as necessary to reflect changes in circumstances (even though the underlying Commission rules remain unchanged),[21] a notice and comment proceeding is required to modify or eliminate an interpretative rule such as an RAO Letter.[22] This is the case even though RAO Letters and any revisions to them cannot contravene either the Commission's formal rules or the requirements of a Commission Order.[23] There is little, if any, chance of that happening if the Commission revises

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[20] In addressing Petitions for Reconsideration and Applications for Review of RAO Letter 21, the Commission found that RAO letters were "interpretative rules" and, as such, were exempt from the APA's notice and comment procedures. *See In the Matter of Petitions for Reconsideration and Applications for Review of RAO 21*, Order on Reconsideration, 12 FCC Rcd 10061, 10071 ¶ 22 (1997) ("*RAO 21 Order on Reconsideration*"). *See also* 5 U.S.C. § 553(b)(3).

[21] The Bureau would be exceeding its delegated authority if it attempted to change or supplement the Commission's rules in an RAO letter. Under Section 32.17 of the Commission's rules, RAO letters "must be limited to explanation, interpretation, and resolution of accounting matters." *March 7, 1996 MO&O*, 11 FCC Rcd at 2961 ¶ 25.

[22] "Once an agency gives its regulation an interpretation, it can only change that interpretation as it would formally modify the regulation itself: through the process of notice and comment rulemaking." *Alaska Professional Hunters Association v. FAA*, 177 F.3d 1030, 1034 (D.C. Cir. 1999), citing *Paralyzed Veterans of America v. D.C. Arena*, 117 F.3d 579, 586 (D.C. Cir. 1997). *Also see In the Matter of 1993 Annual Access Tariff Filings Phase 1; 1994 Annual Access Tariff Filings; AT&T Communications Tariff F.C.C. Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462, and 5464 Phase II; Bell Atlantic Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 690; NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328*, Order Terminating Investigation, 20 FCC Rcd 7672, 7692 ¶ 48 (2005), *pet. for rev. pending sub nom., AT&T v. FCC* (D.C. Cir. No. 05-1171), where the Commission cites the preceding decisions in its discussion of its rescission of RAO Letter 20.

[23] *See RAO 21 Order on Reconsideration*, 12 FCC Rcd at 10069-70 ¶¶ 18-19. *And see March 7, 1996 MO&O*, 11 FCC Rcd at 2961 ¶ 25. Under the "effective amendment" test, a rule that "effectively amends a prior legislative rule" is a legislative, not an interpretative rule" and the APA's notice and comment requirements would apply in such cases. *See USTA v. FCC*, 400 F.3d 29, 34-35, 38 (D.C. Cir. 2005), citing *American Mining Congress v. Mine Safety & Health Admin.*, 995 F.2d 1106, 1112 (D.C. Cir. 1993).

RAO Letter 12, as Joint Petitioners request, and eliminates its "materiality" threshold. This is because neither the *Joint Cost Order* nor any other Commission rule establishes a materiality standard for auditors to use in conducting Part 32/Part 64 audits -- only RAO Letter 12 does.

III. ARGUMENT

A. MATERIALITY SHOULD NOT BE DETERMINED SOLELY BY A QUANTITATIVE THRESHOLD AS RAO LETTER 12 REQUIRES

In employing a single "quantitative" threshold to determine materiality (for affiliate transactions and regulated/nonregulated cost allocation purposes), the Commission's approach is squarely at odds with guidance on materiality from the SEC, FASB, the American Institute of Certified Public Accountants ("AICPA") and the financial community in general.[24] In fact in SAB No. 99,[25] the SEC warns auditors and companies not to rely on a materiality standard that is based solely on a quantitative threshold.[26] SAB No. 99 notes that while the use of quantitative thresholds for materiality determinations has become commonplace in the preparation and audit of financial statements, it emphasizes that such "quantitative" assessments of materiality are merely a first step and that exclusive reliance on any percentage or numerical threshold finds no support in accounting literature or the law.[27]

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[24] In fact, the Commission's approach in RAO Letter 12 does not conform with Generally Accepted Government Auditing Standards. *See* Section 4.19 of Government Auditing Standards, June 2003, which states: "Auditors should consider both quantitative and qualitative factors in making judgments regarding the materiality of possible abuse and whether they need to extend the audit steps and procedures."

[25] "The purpose of this Staff Accounting Bulletin ("SAB") is to provide guidance to financial management and independent auditors with respect to the evaluation of the materiality of misstatements that are identified in the audit process or preparation of the financial statements (i.e., (b) above)...." *See* SAB No. 99, n.1 at 11.

[26] *Id.* at 2-3.

[27] *Id.* at 3-4; *also see* n.24, *supra.*

"A matter is 'material' if there is a substantial likelihood that a reasonable person would consider it important."[28] Clearly, a single "quantitative" measure like the $1 million threshold in RAO Letter 12 provides no hint as to whether an item is truly "material." The first question that usually arises in a "reasonable" person's mind concerning the significance of a misstatement has to do with the relative size of the item (*i.e.*, as a percent of revenue, expense or income). Other considerations that may come into play are:[29]

- whether the misstatement changes earnings or other trends.
- whether the misstatement turns a loss into a profit or vice versa.
- whether the misstatement is related to a particularly important segment of a company's business (*e.g.*, high growth segment).
- whether the misstatement conceals an unlawful transaction.
- whether the misstatement affects a company's compliance with contractual requirements.
- whether the misstatement affects management's compensation.

These are just a few of the "qualitative factors" that SAB No. 99 indicates a company or its auditors should take into account in any determination of materiality.

RAO Letter 12's materiality standard ignores all qualitative factors – relying solely on a single quantitative measure, $1 million.[30] RAO Letter 12's $1 million threshold is a "materiality" standard in name only and should be eliminated.

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[28] SAB No. 99 at 3.

[29] *Id.* at 4-5.

[30] Not only does RAO 12's $1 million materiality standard ignore qualitative factors, it is "static" and represents a shrinking share of petitioners' operating revenues and expenses over time.

B. RAO LETTER 12'S $1 MILLION THRESHOLD DOES NOT PROVIDE ANY ADDITIONAL PROTECTION AGAINST INTENTIONAL MISSTATEMENTS

While RAO Letter 12's $1 million materiality threshold may have the appearance of providing additional protection against intentional misstatements, it does not. Intentional misstatements are not permitted regardless of materiality under either federal securities or communications law. As SAB No. 99 observes, the prohibition against intentional misstatements contained in federal securities laws applies regardless of materiality.

> No person shall, directly or indirectly, falsify or cause to be falsified, any book, record or account subject to Section 13(b)(2) (A) of the Securities Exchange Act.[31]

The same holds true with respect to incumbent LECs' regulated books:

> Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by any such carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, shall be deemed guilty of a misdemeanor, ... :[32]

In addition, Congress significantly strengthened accounting oversight, corporate governance, financial controls and financial reporting requirements of public companies in 2002 with the passage of the Sarbanes-Oxley Act.[33] In particular, Section 404 of this Act addresses internal control over financial reporting and imposes additional requirements on both management and independent auditors to assess and attest to the effectiveness of internal control over financial reporting.[34] Furthermore, Sections 906 and 302 impose certification requirements

[31] 17 C.F.R. § 240.13b2-1. *Also see* SAB No. 99 at 7 and n.32.

[32] 47 U.S.C. § 220(e).

[33] Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745 (2002).

[34] *Id.*, 116 Stat. at 789 § 404.

on Chief Executive Officers and Chief Financial Officers of public companies with respect to, among other things, the effectiveness of internal controls over financial reporting, disclosure of certain fraud to auditors and audit committees and the accuracy of financial statements.[35]

Thus, while there can never be an absolute guarantee that a public company's financial reports do not contain "intentional" misstatements of fact, there are numerous safeguards in place, as discussed above, that impose significant penalties for failure to comply. Clearly, RAO Letter 12's materiality threshold is not necessary to guard against intentional misstatements.

C. RAO LETTER 12'S OVERLY-RESTRICTIVE MATERIALITY STANDARD PROVIDES NO PROTECTION TO REGULATED RATEPAYERS UNDER PRICE CAP REGULATION

When the Commission adopted the *Joint Cost Order* in 1987 to accommodate "accounting" separation, Joint Petitioners' and other incumbent LECs' rates were subject to cost-based rate-of-return regulation at the federal level and in most states. Under such a regulatory regime, regulated/nonregulated cost allocations and the value assigned to affiliate transactions had a direct impact on incumbent LECs' rates. This is no longer true under price cap regulation. Any incentive that Joint Petitioners or other incumbent LECs may have had to "cross-subsidize" nonregulated operations or affiliates under rate-of-return regulation has all but disappeared. Changes in cost allocations and the level of affiliate transactions have little, if any, affect on price cap rates.

The Bureau adopted an overly-restrictive materiality standard in RAO Letter 12 under rate-of-return regulation when costs were directly linked to rates; however, any such possible justification related to customer rates has long since ceased to exist after more than a decade of

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[35] *Id.*, 116 Stat. at 805 § 902, 116 Stat. at 777 § 302.

experience under price cap regulation.[36] RAO Letter 12's $1 million threshold is an anachronism which has long since ceased to provide any protection to ratepayers under price cap regulation and should be eliminated.[37]

D. EVEN IF THE BUREAU CONCLUDES THAT IT NEEDS ITS OWN MATERIALITY THRESHOLD, $1 MILLION IS NOT A MEANINGFUL LEVEL

In the alternative, if the Bureau concludes that the Commission needs its own quantitative materiality threshold for affiliate transactions and regulated/nonregulated cost allocation purposes, it should adopt a percentage-based threshold (rather than an "absolute" number) for both individual items and discrepancies in the aggregate for a given reporting period.[38] The use of a percentage-based threshold explicitly acknowledges that any materiality threshold should vary with the size of the company.[39]

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[36] Price cap rates have continued to decline over this period regardless of the level of nonregulated cost allocations and affiliate transactions.

[37] For all intents and purposes, today, the burden of complying with RAO Letter 12's materiality threshold falls primarily on large incumbent LECs, such as the Joint Petitioners. The Commission's *Phase 2 Accounting Simplification Order* and earlier orders exempted small and mid-sized incumbent LECs from most of the Commission's accounting and ARMIS reporting requirements. *See In the Matter of 2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts for Interconnection; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board; Local Competition and Broadband Reporting*, Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286, Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286, 16 FCC Rcd 19911, 19978-84 ¶¶ 184-204 (2001) ("*Phase 2 Accounting Simplification Order*").

[38] If the Commission decides to adopt a percentage-based threshold rather than eliminate the $1 million threshold, that percentage-based threshold would, like the existing $1 million threshold, obviously have no application to materiality determinations made outside the specific regulatory context of RAO 12 -- for auditors to use in conducting Part 32/Part 64 audits.

[39] While everyone knows that an omission/misstatement that is material for the corner grocery store (or even a regional grocery chain) is not material for WalMart, the use of an "absolute" materiality standard -- such as RAO Letter 12's current threshold -- would ignore this self-evident fact.

Clearly, $1 million was not a reasonable threshold for determining materiality when RAO 12 was issued and is even less so today after numerous incumbent LEC mergers, significant inflation, and growth in large incumbent LECs' operations in the last fifteen years. The attached chart[40] demonstrates that $1 million represented a miniscule portion of Joint Petitioners' regulated operating revenues and expenses in 2004.

This chart illustrates that, regardless of whether operating revenues or expenses are used, a $1 million misstatement (RAO Letter 12's threshold) by any of the Joint Petitioners would be miniscule and would not "affect the judgment of a reasonable person" relying on this information. Therefore, such a misstatement could not be material. For example, for Qwest, the smallest of the Regional Bell Operating Companies ("RBOCs"), $1 million represented .010% of Qwest's regulated operating revenues in 2004 and .013% of its regulated operating expenses. At the other end of the spectrum, $1 million represented .003% of Verizon's regulated operating revenues in 2004 and .003% of its regulated operating expenses.

Regardless of the context within which it is evaluated, RAO Letter 12's $1 million materiality threshold makes no sense in today's environment. Any incremental benefit that may accrue to regulators as a result of this ridiculously low threshold is far outweighed by the cost of complying with the requirement. These costs are not only imposed on the incumbent LECs but also on Commission staff responsible for administering the Parts 32 and 64 Rules.

[40] *See* Attachment 1.

IV. CONCLUSION

For the forgoing reasons, Joint Petitioners request that the Commission grant this Petition and eliminate the $1 million materiality threshold contained in RAO Letter 12 and allow auditors to determine materiality based on GAAP.

Respectfully submitted,

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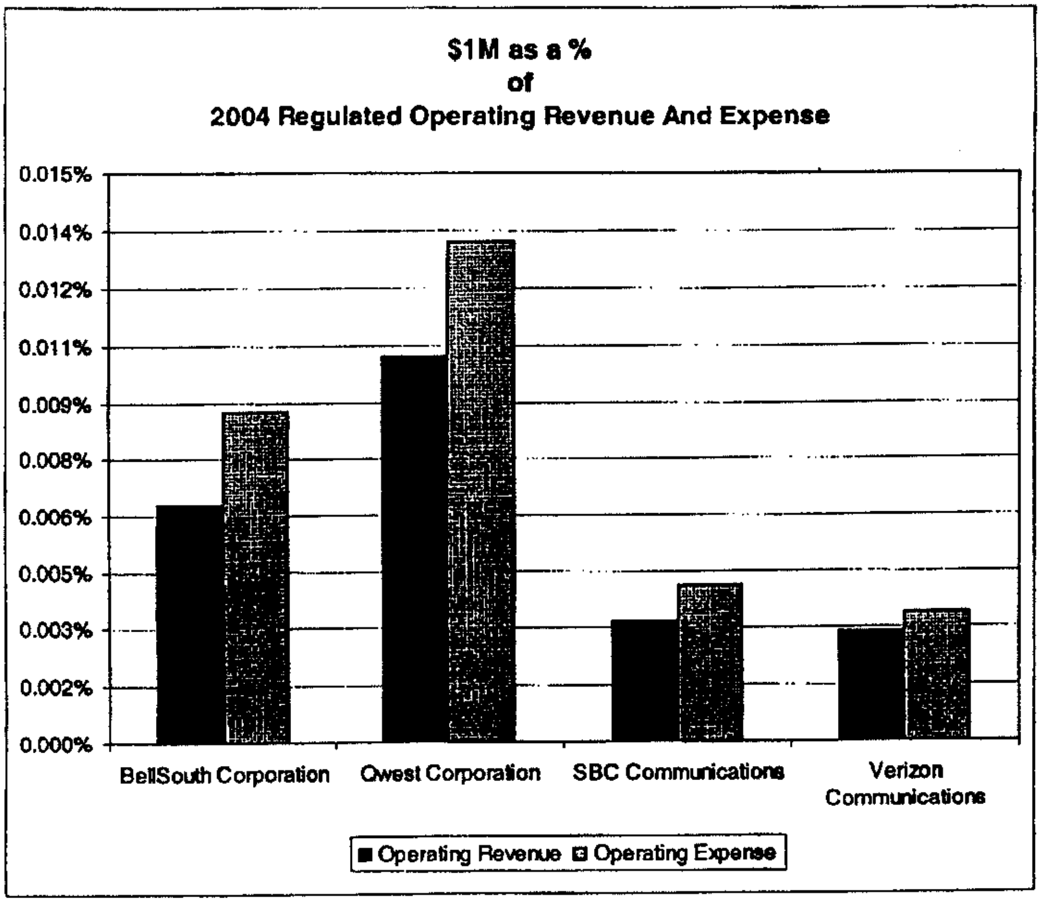

Source Data: Electronic ARMIS Filing System (EAFS) "Customized Reports" - FCC Report 43-03, the Joint Cost Report, available as of 11/07/05.

CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused an original and four copies of the foregoing **PETITION REQUESTING EXPEDITED RELIEF** to be filed with the Secretary of the FCC, and a copy served via e-mail on the FCC's duplicating contractor Best Copy and Printing, Inc. at fcc@bcpiweb.com.

Ross Dino

Ross Dino

December 5, 2005